

FILED

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CHAD M. CARLSEN; SHASTA L.
CARLSEN; CARL POPHAM; MARY
POPHAM, husbands and wives,
individually and on behalf of a class of
similarly situated Washington families,

Plaintiffs-Appellees,

v.

GLOBAL CLIENT SOLUTIONS,
LLC, an Oklahoma limited liability
company; ROCKY MOUNTAIN
BANK & TRUST, a Colorado
financial institution,

Defendants-Appellants.

No. 12-35571

D.C. No. 2:09-cv-00246-LRS

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Honorable Lonny R. Suko, District Judge, Presiding

Submitted October 9, 2013**
Seattle, Washington

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

Before: GRABER and MURGUIA, Circuit Judges, and BURY, District Judge.***

Global Client Solutions, LLC, and Rocky Mountain Bank & Trust
(Appellants) appeal the district court's order granting the Class (Appellees) motion for approval of attorney fees and costs pursuant to the terms of the Settlement Agreement. We affirm.

On August 2, 2009, Appellees filed a class action alleging violations of Washington's Debt Adjusting Act, Wash. Rev. Code ch. 18.28, and Washington's Consumer Protection Act, Wash. Rev. Code ch. 19.86. On January 31, 2012, a Class Action Settlement Agreement and Release was filed. Appellees filed a Motion for Preliminary Approval of Class Action Settlement. The parties negotiated a Settlement Agreement on the merits which involved a full refund of all fees collected by Appellants to the members of the Appellee class, as well as payment of the class administration expenses. Appellees also filed a Motion to Appoint Special Master to Determine Reasonable Attorney Fees under Rule 54(d)(2)(D). The court entered an Order preliminarily approving the class settlement, issued a class notice, set a fairness hearing, and entered an Order appointing a special master to determine reasonable attorney fees. The Special Master entered a fee award based on the Appellees' lodestar calculation of

*** The Honorable David C. Bury, United States Senior District Judge for the District of Arizona, sitting by designation.

\$1,092,098.10. The Special Master recommended a multiplier of 1.65, resulting in a final award of \$1,831,015.04. Appellants filed objections to the Special Master's report (Report). Based on the Report and the Settlement Agreement, Appellees filed a motion for attorney fees and costs. The court entered a final order and judgment approving the class settlement. The court also entered an order granting and approving attorney fees as recommended by the Report.

The district court properly conducted a de novo review of the Appellants' objections to the conclusions of law derived from the factual findings in the Report. Fed. R. Civ. P. 53(f)(4). The objections preserved Appellants' right to appeal.

The district court did not abuse its discretion when it determined that the application of the 1.65 multiplier was warranted under Washington law because of the unusually high risks of the case and the quality of work in an exceptional case.

Finally, the district court did not abuse its discretion in determining that the risk was not eliminated until the Settlement Agreement was signed and approved by the court.

AFFIRMED.